Testimony

Charlotte Ousley

President, Ousley Family Farmers, LLC, Alexandria, IN

On Behalf of Canned-Frozen Food and Growers Coalition

Senate Agriculture Committee Farm Bill Field Hearing

Ankeny, IA,

July 24, 2006

Mr. Chairman, members of the Committee, my name is Charlotte Ousley. Together with my son, Jay, we farm 270 acres of processing tomatoes in Elwood, Indiana. We rent nearly all of the land we farm.

My husband, Herb, tragically was killed in a farming accident in September 2003. Since his death, Jay and I have made every effort to keep our traditional family farming operation viable, in spite of incredible obstacles we encountered as a result of the massive extension of the Fruit and Vegetable Planting prohibition contained in the 2002 Farm Bill when soybeans (oilseeds) became a program crop.

Operating as a sole proprietorship for over 40 years, my husband maintained all ASCS reporting under his own name. Shortly after his death, I contacted FSA for clarification about the status of the producer history that my husband worked his whole life to accumulate. I had no reason to believe anything other than Herb's history as a tomato producer would transfer to me and my son. This producer history is essential under the 2002 Farm Bill for us to rent our needed land for annual production, since processing tomatoes and good management practices require rotations, unlike traditional cash grain crops grown on farms in our area. Our principal landlord possesses farm history so we could continue to produce on that land, but that farm alone is not large enough and must be supplemented with other rental land to support the size of operation required to be financially viable.

Because Herb possessed "producer history," he was always able to obtain the needed rental land from friends and neighbors to supplement our primary landlord's acreage.

Needless to say, I was shocked when FSA informed us (a copy of the FSA letter is Attachment A) that my husband's "producer history" had been lost with his untimely death and could not be transferred to his widow or his son. As a result, we have found it increasingly difficult or impossible to find enough land on an annual basis that will accommodate our contractor's requirement of a minimum three-year land rotation for production of processing tomatoes.

While Red Gold, with whom we contract, has temporarily waived this requirement for us, the sound reasons for requiring land rotation for vegetable crops will soon reduce our yields and cause higher expenses of crop protection sprays and put us at threat of becoming financially incapable of continuing tomato production. We are not out of business yet, but our inability to rent adequate rotational land due to farm bill restrictions will force us to get out of the tomato business -- something we have spent our entire lives depending upon for our livelihood.

It was the will of Congress in 2002 to further extend the necessary safeguards contained in the 1996 Farm Bill for traditional feed grain producers by implementing a similar program for oilseed production by adding millions of acres into program crop status. Immediately after passage of the 2002 Farm Bill and prior to implementation by USDA, potential consequences of the new program were brought to light by the wider group I am here representing today, the Canned-Frozen Food and Growers Coalition.

The negative effects of the widely expanded reach of fruit and vegetable prohibitions, are for the most part, limited to producers in the Midwest. This is because of double-cropping exclusions afforded to southern states and the fact that program acres are concentrated in the Midwest, and not so much in the West.

For this reason, Senators Harkin and Lugar authored a letter (Attachment B) to the Secretary of Agriculture recognizing the "unintentional consequences" brought about by the inclusion of oilseeds as a program crop and the negative impacts this would have on fruit and vegetable producers in the Midwest. This letter was jointly signed by 19 legislators from both houses of Congress in a bipartisan effort to request rulemaking considerations that could offset these negative impacts. Those requests went unheeded.

I am here as a witness to the unexpected consequences of the 2002 Farm Bill. The restriction of planting fruit and vegetables on program acres was a negotiated solution to concerns by other segments of the industry. There are those who would say that adequate protection was provided to Midwest fruit and vegetable producers in the 2002 Farm Bill in response to the expanded program acreage. These provisions have caused my family, and others, undue financial stress.

Reliance upon "producer history" as a basis for continued fruit and vegetable production is simply inadequate. Not only is producer history not transferable between husbands and wives, it is not transferable to the next generation of farmers desiring to enter fruit and vegetable farming and maintain the traditions established by generations of family farms. Fruit and vegetable growers have safely fed this nation with an abundant supply of nutritious and affordable canned goods Family farmers presently are not free to run their businesses in the most efficient fashion because of the inability to transfer producer history. The next generation of farmers needs to be preserved.

In addition, local FSA offices are burdened with extra administration requirements in tracking producer history and farm history, as farms are combined or broken apart, often only for the purposes of trying to work around planting restrictions and making land available.

The solution is simple to these problems; allow fruits and vegetables to be grown on program acres by taking an acre-for-acre reduction in program payments.

Not only does this fix the problems caused by the 2002 Farm Bill, the Congressional Budget Office says this will actually be a budgetary savings.

These consequences of the fruit and vegetable restrictions are real and getting worse as time goes by. I have a deep faith in our government that they did not intentionally mean to bring to an end our family's tradition of raising tomatoes. Surely this was not a planned event. However, that is exactly what will happen if provisions are not included in the next Farm Bill to allow growers such as my son and me, to be able to rent land and continue our farm livelihood.

We ask for NO subsidies on our production. I do not want to receive government payments; I simply want the opportunity to grow tomatoes.

Even if my neighbors desired, they simply are restricted from renting to me land for fruit and vegetable production under current law and still maintain their program eligibility. My husband could, but for some reason I just do not understand, my son and I are prevented from doing that.

Thank you for allowing me this opportunity to tell you my story. I respectfully request the Committee's consideration of the language contained in S. 1038, which would correct the unintended consequences outlined herein.

USDA
Farm Service Agency

Madison County Farm Service Agency
1917 University Boulevard, Anderson, IN 46012-5103
Phone: (765) 644-4249 TDD#: (317) 290-3343 Fax: (765) 640-9029

November 7, 2003

Charlotte Ousley
2742 W 1025 N
Alexandria, IN 46001-8403

Dear Ms. Ousley,

We regret to inform you that since the passing of your late husband, Herb Ousley, all of the producer history that he carried toward being able to plant fruits and vegetables on contracted base acres has been lost.

Producer history is calculated using planted fruits and vegetables during crop years 1991-1995 or 1998-2001. Each individual that had a share in the fruit and vegetable crop receives credit for their share of producer history (1-DCP Amend. 3, par. 477 D). As an example, Bill and Tim are tomato growers that farm on 50% - 50% shares. In 1998, 1999, 2000, and 2001, 200 acres of tomatoes were planted and split 50% - 50% between Bill and Tim. In 2001, the same 200 acres were planted; however, Tim had 25 acres of tomatoes that he did not share crop with Bill. In order to calculate the producer history you would do the following:

Crop Year	Acres Planted to Tomatoes
1998	200
1999	200
2000	200
2001	200
1998 through 2001 annual average plantings	200 (800 / 4)
Bill's share (producer history)	**100** (200 * 50%)
Tim's share (producer history)	**100** (200 * 50%)

Unfortunately, only producers that were recorded as having a share of the crop on the certification forms (FSA-578's) can receive producer history for the planted crop. Since only Herb Ousley was listed (as receiving 100% share), none of the producer history can be carried forward to any member of your family that wishes to continue with the farming operation.
If you have any questions regarding this matter, or if I can be of further assistance, please feel free to contact our office during the normal business hours of 8:00 a.m. until 4:30 p.m., Monday through Friday.

Sincerely,

Erin Hreskowsky
County Executive Director
Madison County Farm Service Agency

Congress of the United States
Washington, DC 20515

July 16, 2002

The Honorable Ann Veneman
Secretary of Agriculture
14th and Independence Avenue, S.W.
Washington, DC 20250

Dear Secretary Veneman:

We are writing today to express our views about a provision in the newly enacted Farm Security and Rural Investment Act of 2002 (FSRIA) that prohibits the production of fruits and vegetables on farm program base acreage.

The 1996 farm bill gave farmers unprecedented freedom to plant most commodities, except for fruits and vegetables. The law prohibited the planting of fruits and vegetables on farm program base acreage except in regions with a history of double-cropping or on farms with a history of producing fruits and vegetables. Under these exceptions, producers were permitted to produce fruits and vegetables on base acreage but were required to forgo farm program payments on an acre-for-acre basis. Under the 1996 bill, USDA decided to levy a large financial penalty on farmers who violate the prohibition, the size of which varies from case to case depending on the gross market value of the fruit or vegetable planted and the farm payments made on the base acreage involved. Producers must forgo farm payments for many years to fully pay the penalty.

The FSRIA continues the fruit and vegetable production prohibition with only minor changes, mainly changing its focus from the act of planting to the act of harvesting. While this sounds like a continuation of the status quo, we assure you, it may not be, depending on how USDA decides to implement the provision. The FSRIA will have the effect of greatly expanding the amount of acreage on which the prohibition applies. Under the 1996 bill, farm program base acreage consisted of acreage historically devoted to wheat, feedgrains, cotton, and rice. The FSRIA adds soybeans and other oilseeds to this list of program commodities. Economists at the Food and Agricultural Policy Research Institute (FAPRI) estimate farm program base acreage under the new farm bill will increase by nearly 58 million acres nationwide, a 27 percent increase. Following a one-year transition, the fruit and vegetable prohibition will extend to all these additional acres beginning with the 2003 crop unless they are exempted by the limited exemptions mentioned above.

In recent years, Midwestern growers have increased production of vegetables for processing, such as tomatoes, usually through a contractual arrangement with a local food processor. Though most such growers are farm program participants, they were able to increase vegetable production without penalty by utilizing cropland that otherwise would have been devoted to soybeans, a non-program commodity under the 1996 farm bill. This activity, entirely consistent with the market-oriented principles of the 1996 farm bill, has helped meet consumers' growing demand for fruits and vegetables and has helped producers diversify their farming operations beyond traditional row crops. Both Midwestern producers and processors are poised for continued growth in the future. Unfortunately, the FSRIA threatens to eliminate that growth.

The double-cropping exemption we made reference to earlier is generally not available in the Midwest. As a result, once farm program base acreage has expanded to include soybeans and other oilseeds under the FSRIA's base updating process, most Midwestern farmers' ability to produce fruits or vegetables will be severely limited to no more than their recent year history of such production. Expansion beyond such history will be very difficult.

We do not think the Congress intended that the FSRIA result in such a massive expansion of the 1996 law's prohibition on fruit and vegetable production. After all, program participants under the 1996 farm law were free to shift acreage between fruits and vegetables and oilseeds, without restriction or penalty. With respect to this issue, we ask that you implement the FSRIA in 2003 and beyond in a manner that is more consistent with the 1996 farm bill. For example, fruit and vegetable production could be permitted on only the increase in a producer's base as long as the producer forgoes farm program payments on such acreage on an acre-for-acre basis. We request that this change be made as part of the final regulation implementing Title I of the FSRIA.

If USDA implements Title I of the FSRIA with the above-mentioned change, the fruit and vegetables production prohibition would still apply to pre-FSRIA base acreage. This brings us to the size of the USDA-established penalty for violating the production prohibition. We believe the penalty is far larger than necessary to ensure producer compliance and has been unfair to farmers who have unintentionally violated the fruit and vegetable production prohibition. We request that the size of penalty be reduced to a more reasonable level.

In closing, allowing fruit and vegetable production on only the increase in base acreage in exchange for forgoing farm payments would continue the fruit and vegetable production prohibition in a manner that is consistent with the 1996 farm bill. We believe that this is what the Congress intended with respect to this issue. In addition, this change will help make the new farm bill more equitable and more market-oriented at no additional cost to the taxpayer.

Thank you for your time and attention to this most important issue.

Sincerely,

Tom Harkin

Richard G. Lugar

[illegible]

Mark Souder

Russell D. Feingold

George V. Voinovich

Evan Bayh

Dan Burton

Ray LaHood

Peter J. Visclosky

Steve Buyer

Baron Hill

John A. Boehner

Herb Kohl

Mike DeWine

Peter G. Fitzgerald

Chuck Grassley

John N. Hostettler

Dennis Hastert